IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On: 01.04.2026	Delivered On: 09.04.2026

CORAM

THE HONOURABLE DR JUSTICE G. JAYACHANDRAN
AND
THE HONOURABLE MR.JUSTICE SHAMIM AHMED

Tax Case (Appeal) Nos.459 & 460 of 2009

The Commissioner of Income Tax,
Coimbatore. … Appellant in both appeals

vs.

M/s.Super Spinning Mills Ltd.,
P.B.No.3888, Race Course,
Coimbatore – 641 018. … Respondent in both appeals

Prayer in T.C.A.No.459 of 2009: Tax Case Appeals filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal 'D' Bench, Chennai dated 26th July 2005 passed in I.T.A.No.187/Mds/2001, for the Assessment Year 1997-98.

Prayer in T.C.A.No.460 of 2009: Tax Case Appeals filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal 'D' Bench, Chennai dated 26th July 2005 passed in I.T.A.No.1566/Mds/2000, for the Assessment Year 1996-97.

For Appellant in both Appeals : Mr.V.Mahalingam, Senior Standing Counsel, & Mr.P.E.R.Mangala Suvigaran

For Respondent in both cases : Mr.A.S.Sriraman

COMMON JUDGMENT

M/s.Super Spinning Mills, engaged in manufacture and sale of cotton/blended yarns, filed its return of income on 27.11.1996 for the Assessment Year 1996-97, declaring an income of Rs.6,03,371/-. The said return was scrutinised under Section 143(3) of the Act. A sum of Rs.6,19,43,673/- spent for the replacement of machinery as revenue deductions. The Assessing Officer declined to accept the claim stating that the machinery claimed under replacement are independent, sophisticated and modern machinery capable of delivering higher production and quality. Therefore, the expenditure would not be an expenditure of revenue nature but it would be a capital expenditure. Section 10(2)(v) permits deduction where the expenditure is a revenue expenditure and not if it is a capital expenditure. However, depreciation at the rate of 12.5% was allowed on such addition.

2. On appeal by the assessee, the Commissioner of Income Tax (Appeal) partly allowed only in respect of items of spare parts which were satisfactorily explained as replacements to the existing machinery and which were not as substitute to the existing machinery.

3. Identically, for the Assessment Year 1997-98 also, the assessee claim of revenue expenditure Rs.13,10,00,563/- for replacement of Plant & Machinery was disallowed by the Assessing Officer and treated it as capital expenditure, with depreciation. The appeal by the assessee before the CIT (A) was dismissed following the earlier order passed for the Assessment Year 1996-97.Before the appellate authority several judgments were cited on either side. Finally, the Appellate authority dismissed the appeal of the assessee confirming the Assessing Officer's order in respect of replacement of new machineries as capital expenditure. In both the appeals, in respect of allowablity of capital loss, bonus paid to the employee and cancellation of penalty were held in favour of the assessee.

4. Before the ITAT, the assessee filed a set of appeals challenging the order of the Appellate Authority which confirmed the assessment orders for the year 1991-92, 1994-96, 1996-97, 1998-99. In so far as the allowed portion the Revenue had preferred a set of appeals. All those appeals were taken up together and common order was passed on 26th July,2005.

5. The subject matter of the appeals under consideration are the orders passed by the ITAT in ITA No:1566/Mds/2000 (Assessment Year 1996-97) and ITA No:187/Mds/2001 (Assessment Year 1997-98). The treatment of the expenditure incurred for replacement of machineries by new machineries as revenue expenditure

instead of capital expenditure by the ITAT is the common issue in both these appeals.

6. The perusal of the impugned order of ITAT, we find that the Tribunal has held in favour of the Assessee relying the Judgement of the Madras High Court in ***Commissioner of Income Tax (Revenue) vs. Janakiraman Mills Ltd*** *reported in* ***(2005) 275 ITR 403 (Mad)***.

7. For convenient appreciation, the relevant portion of the Tribunal order which is impugned herein are as below:-

> I.T.A.No:1566/Mds/2000:
>
> This appeal by the revenue is directed against the order of the CIT (A) and relates to the Assessment Year 1996-97.
>
> The solitary issue raised in this appeal relates to the allowability of expenditure towards replacement of machinery as revenue expenditure. Both the parties agreed that the issue now stands covered by the decision of the jurisdictional High Court rendered in the case of CIT v. Janakiram Mills Ltd. (275 ITR 403). In this case the Hon'ble High Court has held that expenditure on replacement of worn out machinery can be considered as expenditure under current repairs. As the expenditure was laid out wholly and exclusively for the purpose of business, the same is allowable under the law. Respectfully following the precedent, we decide this appeal in favour of the assessee and against the Revenue.

I.T.A.No:187/Mds/2001:

This appeal by the assessee is directed against the order of the CIT (A) and relates to the assessment year 1997-98.

This first issue relates to the allowability of expenditure towards replacement of machinery as revenue expenditure. Both the parties agreed that the issue now stands covered by the decision of the jurisdictional High Court rendered in the case of CIT v. Janakiram Mills Ltd (275 ITR 403). In this case the Hon'ble High Court has held that expenditure on replacement of worn out machinery can be considered as expenditure under current repairs. As the expenditure was laid out wholly and exclusively for the purpose of business, the same is allowable under the Law. Respectfully following the precedent, we decide this appeal in favour of the assessee and against the Revenue.

8. The substantial questions of law framed in both the appeals are same and it reads as below:-

1) Whether the replacement of machinery parts will amount to revenue expenditure or not?

2) Whether bringing into existence of a new asset or obtaining a new advantage would amount to revenue expenditure or not?

9. Before adverting to the substantial question of law, it is necessary to recollect the reasoning given by the Assessing Officer to add the cost of replacement

of machinery parts under revenue expenditure and to allow only depreciation.

"It is stated that various machineries are used in the manufacture of yarn from cotton and they are part of a single processing unit. Though each machinery may be inter dependent but each machinery is not part of the whole machinery, because processing in each machinery is different and each machinery is independently functioning. In the case of Aruna Mills Ltd Vs. C.I.T., Ahmedabad the Gujarat High Court had occasion to consider the question whether the assessee-company was entitled to development rebate under Section.10 (2)(vii) of the IT Act, 1922, in respect of the expenditure incurred in replacing ordinary spindles by roller bearing spindles. The Gujarat High Court pointed out that the Supreme Court in C.I.T. Vs. Mir Mohd. Ali (53 ITR 165) adopted with approval the definition of the word 'machinery'given by the Privy Council in Corporation of Calcutta Vs. Chairman, Cossipore and Chitpore Municipality, namely, that 'machinery' meant some mechanical contrivances which, by themselves or in combination with one or more other mechanical contrivances, by the combined movement and inter dependent operation of their respective parts generate power, or evoke, modify; apply or direct natural forces with the object in each case of effecting so definite and specific a result, and observed that the word "machinery" used in Section. 10(2)(iv b) of the I.T. Act was an ordinary and not a technical word. The Gujarat High Court held that spindles are clearly machinery and when installed in the ring-frames would constitute a self contained unit for spinning. Though, therefore they by themselves may not be said to be a self-contained unit,

they must be held to be "machinery".

In the instant case the assessee-company has shown the replaced items of machinery as addition to assets in the balance sheet and therefore keeping in view the sound accountancy principles the installation of these machineries forms part of the addition to the assets in the balance sheet. The Possession of machinery is necessary for carrying on the manufacturing and business operation and the object of incurring expenditure on these machines was not repair of old machines but installations of new machines because some old machinery / assets were condemned or sold by the assessee-Company.

There is no section in the Income-tax Act which allows deduction of cost of plant and machinery irrespective of any condition or limit and solely on the ground that such plant and machinery is by way of replacement of existing ones. When plant and machinery are purchased, the Section that applies directly is sec.32 of the Income-tax Act. Sec.32 (1)(ii) provides for depreciation allowance in respect of block of assets. Block of assets means assets falling within a class of assets being buildings, machinery or plant or furniture. Clause (b) of the first proviso is also worth noting for understanding the scheme of deduction under the Income-tax Act in respect of cost of plant and machinery. It refers to Sec.42. Under Sec. 42, there is a separate provision for deduction of cost of plant and machinery in certain circumstances. Thus, it is clear from a perusal of sec. 32(1)(ii) and the first proviso thereto that cost of plant or machinery can be allowed as a deduction only when the case

falls under sec. 42. In all other cases, depreciation allowance alone could be given

It can thus be seen that replacement and modernisation is inbuilt in the concept of depreciation. That is the reason why there is no separate deduction available for replacement and modernisation. If the claim of the appellant is to be accepted, it will be necessary to scrap sec.32 itself.

The question is whether there is an option available to the assessee regarding whether to claim depreciation and other capital allowances or whether to claim replacement as repairs. It does not seem that such an option is available. In this connection, the observation of the Hon'ble Madras High Court in the case of CIT vs. Southern Petro Chemical (No.2) (233 ITR 400) is worth noting: "The option of the assessee in the matter of grant of depreciation after the particulars were available is practically nil and it is the duty of the Income Tax Officer to determine the total income under the Act and if he finds that there are particulars for the grant of depreciation, as an Officer to determine the correct income of the assessee, he has jurisdiction to grant the depreciation even where the assessee has not desired the deduction for reasons of its own and there is no question of bargain in the grant of statutory allowances. If the choice is granted to the assessee in the matter of grant of statutory allowances, it would in effect distort the determination of the total income and it will contort the priorities in the matter of granting statutory deduction available under the Act."

10. Now, let us see the reason given by the Appellate Authority in IT appeal No:178-C/1999-2000, dated 21.07.2000, for the Assessment Year 1996-97 and in I.T.Appeal No:64-C/2001-01, dated 24.11.2000, for the Assessment Year 1997-98.

I.T.A No:178-C/99-2000:

> *"The first ground relates to disallowance of a claim of Rs.6 crores 19 lakhs 43 thousand and 673 as revenue expenditure. The appellant replaced machineries in its plants as part of a systematic programme of modernisation spread over a number of years. The cost of such replacement was claimed as revenue expenditure. For the detailed reasons given by the A.O. in the assessment order, the claim was negatived by him. I agree with him. Similar claim of replacement of Rs.6 crores 96 lakhs 56 thousand and 40 was considered by me for the immediately preceding year and I had for the detailed reasons given in my order in ITA No.265-C/98-99 dated 30-7-1999 decided the issue against the appellant. No purpose will be served by repeating the same. Therefore, the cost of replacements of independent machines will be treated as capital expenditure."*

11. The Appellate Authority, after taking into consideration that not all machineries shown in the assessment orders are replacement of new machineries, there are some replacement of only spare parts. Examining the materials item wise, the appellate authority found some of the items being only spare parts to the

machineries and replaced due to wear and tear. Hence, directed the Assessing Officer to verify if the replacement were only of defective spares, in which case the claim should be allowed and depreciation to be withdrawn.

12. Reason assigned by the Appellate Authority to justify his order in the I.T.A 64-C/2000-01:

> "*At the time of appeal, various grounds were taken which are more or less repetition of the grounds taken in the earlier assessment years. The details of the manufacturing process has been given and the essence of the submission is that the process involved is integrated and hence replacement of machineries should not be considered as replacement of individual machines but parts of integrated machinery. Reliance was placed on 139 ITR 105, 49 ITR 188, 21 ITR 191, 11 DTC 637, 177 ITR 377, 237 ITR 902. All these arguments and the case laws have already been dealt with by me in the appellant's own case by my order in ITA No.265-C/98-99 dated 30-7-1999 and 178-C/99-2000 dated 21-7-2000 and for the detailed reasons given therein the claim of the appellant cannot be allowed.*
>
> *I, therefore, agree with the A.O. that the replaced machineries are independent machineries performing to their own capacities and that the spindleage of the entire mill has got nothing to do with the determination of such capacity. It is also against common sense that the replacements involving crores of rupees will not result in improved functioning of the particular*

component. It may also be noted that capital expenditure obviously cannot be allowed under section 37(1). Similarly, current repairs to any plant or machinery cannot also constitute capital expenditure in terms of the decision of the Hon'ble Supreme Court which is binding on everybody concerned with the administration of the Law under article 141 of the Constitution. The Hon'ble ITAT, which is the ultimate fact finding authority had in the case of Nagammai Cotton Mills, on an inspection of a textile mill come to the conclusion that these machineries are independent machines. The Hon'ble Supreme Court has long ago laid down the proposition that even substantial replacement of a capital asset constitutes capital expenditure. In the present case, there was wholesale replacement. There is, therefore, no doubt that the expenditure constituted capital expenditure. It may also be pointed out that there cannot be one set of texts for determining the nature of an expenditure when it comes to adjudicating on a claim pertaining to development rebate, investment allowance and such other capital allowances and another set for determining when the claim is a revenue expenditure."

13. When both the above orders of the CIT (A) came up for consideration, the Tribunal in its order dated 26.07.2005 had recorded that the parties have conceded that the issue whether the expenditure on replacements of worn out machinery can be considered as expenditure under current repair is covered by the decision of the High Court in ***Janakiraman Mills Ltd*** (275 ITR 403). As the expenditure was laid out wholly and exclusively for the purpose of business, the same is allowable under the

law.

14. Whereas in the grounds of appeal, the contention of the revenue is that, the judgment of Madras High Court in ***Janakiraman Mills*** case is challenged before the Hon'ble Supreme Court and the appeal is pending. There is no concealment as observed by the ITAT. After 20 years, when the appeal is taken up for final hearing, it is brought to our notice that, the Judgment of the Madras High Court rendered in ***Janakiraman Mills Ltd*** case reversed in ***Commissioner of Income Tax vs. Saravana Spinning Mills (P) Ltd reported in [2007] 293 ITR 201*** and same also referred in the subsequent judgment of the Hon'ble Supreme Court in ***Commissioner of Income Tax vs. Ramaraju Surgical Cotton Mills reported in [2008]166 Taxman 356 (SC)***.

15. Several judgments were cited on either side to buttress their submission. One judgment which, in our opinion, is more appropriate and relevant to the present case appears to be the decision of this Court in ***Super Spinning Mills Ltd vs. Assistant Commissioner of Income Tax, Company Circle-1(2), Coimbatore*** reported in ***(2013) 37 Taxmann.com 290 (Madras),*** since it is not only in respect of the same issue but also in respect of same assessee.

16. The assessee, a spinning mill, in its spear of modernising its plant been for several years keep replacing its machineries. While doing so, the costs of

machineries in question were capitalised in the books of account but claimed as revenue expenditure for Income-Tax purposes. This accounting was never accepted by the Department. The decision of the Assessing Officer is consistently challenged. For the Assessment Year 2005-06, when the assessee claimed the expenditure under revenue expenditure and the same was denied by the Department and assessed to tax, the matter was challenged before the Appellate authority and the ITAT and finally came up to High Court for consideration. By that time, the Hon'ble Supreme Court had reversed the judgment rendered by the High Court in M/s.Janakiraman Mills Ltd case, which was relied by the ITAT in the impugned orders.

17. Thus, Income Tax Appellate Tribunal held in favour of the assessee without any discussion but solely relied on the judgment that was later overruled. Therefore, on this ground alone the appeals herein are liable to be allowed.

18. What should be the test to decide, whether the replacement of machinery is capital expenditure or revenue expenditure, we find, in ***Commissioner of Income Tax vs. Sri Mangayarkarasi Mills (P) Ltd*** reported in ***(2009) 182 Taxman 141(SC)***, the Hon'ble Supreme Court has upheld the view expressed in M/s.Saravana Spinning Mills Case, that entire textile mills machineries cannot be regarded as a single asset, replacement of parts of which can be considered to be for mere purpose of preserving or maintaining this asset, all machineries put together

constitute the production process and each separate machine is an independent entity. To fall under the ambit of 'current repairs', the assessee should satisfactorily explain that: i) the old parts are not available in the market or ii) the old parts are worked for more than 50 to 60 years. *(See:* ***Commissioner of Income Tax vs. Mahalakshmi Textile Mills Ltd reported in (1967) 66 ITR 710 (SC)***.

19. For the above reasons, we are of the considered view that, the judgment of the co-ordinate bench rendered in ***Super Spinning Mills Case vs. Assistant Commissioner of Income Tax, Company Circle-1(2), Coimbatore*** (AY 2004-05) reported in ***2013 (37) Taxmann.com 290 (Madras),*** squarely applies to the case in hand, hence the order passed by ITAT in ITA No:1566/Mds/2000 and ITA No:187/Mds/2001 relying of ***M/s.Janakiraman Mills Ltd*** cited supra, which was later reversed the matter is remanded back to the Appellate Authority for fresh hearing giving opportunity to the assessee to place necessary materials to justify how the replacement are revenue expenditure. The appellate authority is directed to decide the issue in the light of the Hon'ble Supreme Court guidelines and the High Court order in ***Super Spinning Mills Ltd vs. Assistant Commissioner of Income Tax, Company Circle-1(2), Coimbatore*** *reported in* ***(2013) 37 Taxmann.com 290 (Mad)***.

20. As a result, the Tax Case (Appeals) Nos.459 of 2009 and 460 of 2009 stands disposed of on the above terms. There shall be no order as to costs.

(Dr. G.JAYACHANDRAN, J.) & (SHAMIM AHMED, J.)
09-04-2026

Index :Yes.
Neutral Citation :Yes/No.

Dr. G.JAYACHANDRAN, J.
&
SHAMIM AHMED, J.
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Pre-Delivery common judgment made in
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